

S.B. Civil Writ Petition No.6606/98

Deen Bandhu Swami Vs. RSEB

Date of Order : 22/03/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Ajay Gupta, for petitioner
Mr. Manish Bhandari, for respondent

The post of Apprentice Sub-Engineer was advertised on 25th September, 1998, calling applicants from those who had secured 65% of marks for General candidate & 60 for SC/ST, but eligibility of marks was changed vide corrigendum dt.10th October, 1998 whereby for general it became 60 and 55 for SC/ST candidate.

Undisputedly, the petitioner secured 54.5% of marks in Diploma Examination and as per reply filed by the respondents, in general category the candidates who were considered for appointment have secured 60% of marks in three years diploma course. It has further been submitted by the respondent that in the ratio of 1:5 names of candidates were called from the Employment Exchange and list sent by the Manpower Department contains 200 names for General category in which the name of petitioner does not find place. No person lower in the order of merit or secured lesser marks has been considered for appointment.

Counsel for petitioner submits that since he undertook training in erstwhile Electricity Board, as such he was entitled for preference at the time when the recruitment was made. In support of his contention, counsel has placed reliance on the judgment of apex court in **U.P. State Road Transport Corporation Vs. U.P. Parivahan Nigam Shishukhs Berozgar Sangh [AIR 1995 SC 1115]**. In my opinion, submission is without any substance for the reason that petitioner can claim preference, if the applicants are similarly situated. Undisputedly, in the present case, the applicants who were considered for appointment secured 60% of marks, whereas the petitioner secured 54.5% of marks. In such circumstances, petitioner was not entitled to claim any preference qua those who are higher in order of merit.

Consequently, the writ petition stands dismissed along with stay petition.

[Ajay Rastogi], J.

FRB